IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 280 of 2005

Between:

1 Veleti Yohan @ Newton S/o Peterson,
R/o S.P. Street. Bhimavaram West Godavari District
2 Motupalli Narasimharaju S/o Neelakateswara Rao
4th Ward, Chekkavari Street, Bhimavaram,

West Godavari District
3 Karella Eswara Rao S/o Venkataratnam
Medical Representative R/o Chekkavari STreet, Bhimavaram,
West Godavari District.

...PETITIONERS

AND

1 State of Andhra Pradesh, rep by Secretary,

Home Department, Secretariat Buildings, Hyderabad
2 The Deputy Superintendent of Railways, Police,

Visakhapatnam.
3 The Sub-Inspector of Police, Government Railway Police

Station, Nidavvolu, West Godavari District.
4 Head Constable, Government Railway Police Out-Post,

Tanuku, West Godavari district

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or order or direction declaring the action of the Respondents in filing Memos in Crime No. 92/2004 of Government Railway Police Station, Nidadavolu, Seeking incorporation of the offence U/s. 3 (X) of S.Cs. & STS. (POA) Act, 1989 as arbitrary, illegal and

unconstitutional.

Counsel for the Petitioners: MR.T.Bali Reddy, Senior Counsel

Counsel for the Respondents: GP FOR HOME

The Court at the admission stage made the following :

O R D E R:

In relation to an alleged assault on one Mr.Jeevaratnam, a gateman of Indian Railways, Crime No.92/2004, on the file of RPS, Nidadavolu, was registered under Sections 353 and 323 of IPC. No person was named as accused therein. The petitioners state that the said Jeevaratnam died thereafter, and on the basis of a suicide note, said to have been recovered from the dead body of Jeevaratnam, attempts are being made to incorporate Section 3 of Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989 (for short "the Act") and to rope in them in the FIR. Several contentions are urged, both on questions of fact and law, and it is submitted that there does not exist any basis for such an action. Learned Senior Counsel, Sri T.Bali Reddy, has argued the matter extensively and submits that the action of the respondents in proposing to include the names of the petitioners and alter the provision in the FIR, is impermissible in law.

Learned Government Pleader for Home, on the other hand, submits that it is too premature at this stage to interfere as to whether the names of the petitioners would be included, or any provision would be altered.

As of now, the provisions shown in FIR No.92/2004 are Sections 353 and 323 of IPC, and the names of the petitioners do not figure therein. It is true that depending on the progress in the investigation, it is competent for the investigating officer to alter the provisions, or to include, or to delete the names in the FIR. The petitioners strongly urge that the so-called suicide note itself is fabricated, and attempts are made only to involve and harass them. It is not permissible for this Court to decide the parameters of investigation. It is only when the provision is altered to the detriment of the petitioners, that they can be said to have had any genuine grievance. The right and liberty of the investigating agency cannot be curtailed at this stage. However, the interests of the petitioners can be protected by directing that they shall not be arrested, in the event of their names being shown in the FIR and the provisions of Section 3 of the Act being included in it, for a period of one week from the date of such inclusion.

Hence, the writ petition is disposed of, directing that in the event the names of the petitioners being shown, or any provisions of the Act being incorporated in the FIR No.92/2004, on the file of RPS, Nidadavolu, the petitioners shall not be arrested, for a period of one week from the date of such inclusion. There shall be no order as to costs.

_____

19th January, 2005

pan

To

1 The Secretary, Home Department,

Government of Andhra Pradesh, Secretariat Buildings,

Hyderabad.

2 The Deputy Superintendent of Railway Police,

Visakhapatnam.

3 The Sub-Inspector of Police, Railway Police Station,

Nidavvolu, West Godavari District.

4 The Head Constable, Government Railway Police Out-Post,

Tanuku, West Godavari District.

5 Two C.Cs. to the Government Pleader for Home,

High Court buildings, Hyderabad (OUT).

6 Two C.D.copies